IN THE HIGH COURT OF GUJARAT AT AHMEDABAD


SPECIAL CIVIL APPLICATION No 1357 of 1998



For Approval and Signature:

Hon'ble  MR.JUSTICE N.N.MATHUR
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1.      Whether  Reporters  of  Local Papers may be allowed
        to see the judgements?

2.      To be referred to the Reporter or not?

3.      Whether Their  Lordships  wish to see the fair copy
        of the judgement?

4.      Whether  this  case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?

5.      Whether  it is to be circulated to the Civil Judge?
        1-5     No
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HARIJAN MERAMAN JADAV BORICHA
Versus
     STATE OF GUJARAT
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Appearance:
     M/S THAKKAR ASSOC. for Petitioner
     MR. S.J. DAVE, AGP for Respondent No.  1, 2, 3


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     CORAM :  MR.JUSTICE N.N.MATHUR
     Date of decision: 02/09/98


ORAL JUDGEMENT
     The   petitioner  has  been  detained  under  the
provisions  of  Gujarat  Prevention  of  Anti-Social
Activities  Act,  1985  (hereinafter  referred  to as `the
PASA Act') by the order dated  11.2.1998  passed  by  the
District  Magistrate,  Junagadh.   It is alleged that the
petitioner is a  bootlegger  and  some  cases  under  the
provisions  of  Bombay  Prohibition  Act, 1949, have been
registered against him.  It  is  now  well  settled  that

unless the activities of a person as bootlegger have disturbed the maintenance of public order, he cannot be detained under the Act. Reliance is placed on a decision in the case of PIYUSH KANTILAL MEHTA VS. COMMISSIONER OF POLICE, AHMEDABAD & ORS. reported in AIR 1989 SC 491. In the instant case there is nothing to indicate that the petitioner has indulged in any criminal activities as a bootlegger which has affected or likely to affect maintenace of public order. Thus, in my view, the impugned order of detention is ex-facie illegal and the same cannot be sustained.

2. In view of the aforesaid, the Special Civil Application is allowed. The order of detention dated 11.2.1998 passed by the District Magistrate, Junagadh is quashed and set aside. The detenu shall be released forthwith if not required in any other case. Rule made absolute accordingly.

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